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S.A. de C.V.

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 ZOBELE MEXICO, S.A. de C.V.,  
12 Plaintiff,  
13 v.  
14 AUTO EXPRESSIONS, LLC and  
15 KRACO ENTERPRISES, LLC,,  
Defendants.

Case No.:

## **COMPLAINT**

Plaintiff Zobele Mexico, S.A. de C.V., for its complaint against Defendants,  
avers as follows:

## PARTIES

20       1. Plaintiff Zobele Mexico, S.A. de C.V. (“Zobele”) is a company duly  
21 formed and existing under the laws of Mexico, with its principal place of business in  
22 Hermosillo, Sonora, Mexico.

23       2. On information and belief, Defendant Auto Expressions, LLC (“Auto  
24 Expressions”) is an Illinois limited liability company, which is not in “Good  
25 Standing” in Illinois, with its principal office at 505 E. Euclid Avenue, Compton,  
26 California 90224, that is registered to do business in the State of California, and does  
27 business in the County of Los Angeles, State of California.

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1       3. On information and belief, Defendant Kraco Enterprises, LLC (“Kraco”)  
2 is an Illinois limited liability company, with its principal office at 505 E. Euclid  
3 Avenue, Compton, California, 90224, that is registered to do business in the State of  
4 California, and does business in the County of Los Angeles, State of California.

5       4. On information and belief, Defendant Kraco is the sole member and the  
6 manager of Defendant Auto Expressions.

## **JURISDICTION AND VENUE**

8       5. This Court has subject matter jurisdiction over Zobele's claims, pursuant  
9 to 28 U.S.C. § 1332, because complete diversity exists, and the amount in controversy,  
10 exclusive of interest and costs, exceeds \$75,000.

11       6. On information and belief, this Court has personal jurisdiction over  
12 Kraco and Auto Expressions because Kraco and Auto Expressions have their principal  
13 offices in California, do business in California, at all relevant times have done  
14 business in California, and because the claims in this case arise out of or relate to the  
15 business which Kraco and Auto Expressions conducted in California and there is a  
16 causal link between Kraco's and Auto Expressions' conduct in California and the  
17 claims in this case.

18       7.     Venue is proper in the Central District of California, under 28 U.S.C.  
19 § 1391, because Kraco and Auto Expressions have their principal offices in this  
20 district, and therefore reside in this district, and because a substantial part of the events  
21 or omissions giving rise to the claim occurred in this district.

## **FACTS COMMON TO ALL COUNTS**

23        8.      Zobele, among other things, purchases and exports from Mexico on a  
24 wholesale basis various products including air freshener products for automobiles.

25        9. Until recently, and at all relevant times, Kraco and Auto Expressions  
26 sold, among other things, the air freshener products they purchased from Zobele.

27        10. Zobele has had a business relationship with Kraco and Auto Expressions,  
28 under which Kraco and Auto Expressions jointly issued purchase orders to Zobele for

1 air freshener products, listing Kraco as the “Bill To” entity. Zobele then manufactured  
2 such products solely for use by Auto Expressions and Kraco, and Zobele then shipped  
3 the products to Kraco’s and Auto Expressions’ Warehouse in Compton, California,  
4 and sent the applicable invoices to Kraco and Auto Expressions at their Compton  
5 California headquarters.

6       11. However, beginning in or around April or May 2017, Defendants Kraco  
7 and Auto Expressions stopped paying Zobele for the products that Zobele shipped and  
8 invoiced to Kraco and Auto Expressions. Kraco and Auto Expressions failed to pay  
9 any of the invoices issued during the period beginning in or around April or May 2017  
10 and ending in or around December 31, 2017 (the “Unpaid Invoices”), for a total  
11 amount owed to Zobele of \$839,944.00.

12       12. On January 18, 2018, Zobele sent a letter to Kraco, asserting that Kraco  
13 (and Auto Expressions) owed Zobele the amount of \$839,944.00, as of that date.

14       13. On January 26, 2018, Zobele sent Kraco and Auto Expressions a "Credit  
15 Memo" in the amount of \$3,096.92 (the "Credit Amount"), for certain  
16 reimbursements claims by Kraco, leaving the amount due and owing to Zobele as  
17 \$836,847.08.

18       14. On February 7, 2018, Todd Michalik, the CEO of Kraco, wrote an email  
19 to Zobele, stating, on behalf of Kraco, that Kraco intended “to pay all amounts due”  
20 to Zobele for the unpaid invoices.

21       15. Neither Kraco nor Auto Expressions, however, has paid Zobele any part  
22 of the amount outstanding regarding the unpaid invoices.

23       16. On or about April 2, 2018, non-party Niteo Products, LLC (“Niteo”),  
24 announced that it had purchased the air-care assets of Kraco and Auto Expressions.

25       17. On information and belief, Kraco and Auto Expressions were insolvent  
26 at the time of this sale to Niteo, or became insolvent as a result of this sale to Niteo.

27       18. On information and belief, immediately prior to the sale to Niteo, certain  
28 assets of Kraco and Auto Expressions (the “secured assets”) were pledged as security

1 for a loan from PNC Bank National Association (“PNC”) to Kraco and Auto  
2 Expressions (among others), and certain assets of Kraco and Auto Expressions were  
3 not pledged as security for said loan (the “unsecured assets”).

4        19. On information and belief, as part of the sale to Niteo, Kraco and Auto  
5 Expressions transferred the unsecured assets to Niteo without receiving any  
6 compensation for the unsecured assets.

7       20. On information and belief, Defendants sold all of their other assets to  
8 other purchasers. Upon information and belief, Defendants sold certain other  
9 unsecured assets without receiving compensation therefor.

10        21. On information and belief, the proceeds of the sale to Niteo and other  
11 purchasers were delivered to PNC Bank, as claimed partial repayment for the debt  
12 allegedly owed to PNC by Kraco and Auto Expressions, among others, and none of  
13 the proceeds was made available to satisfy other creditors of Kraco or Auto  
14 Expressions.

## **FIRST CAUSE OF ACTION**

#### **(Breach of Contract, All Defendants)**

17       22. Plaintiff reincorporates all of its allegations contained in Paragraph 1  
18 through 21 of this Complaint as if fully restated herein.

19       23. Plaintiff had a valid and enforceable contract with Defendant Kraco for  
20 the sale of air freshener products.

21       24. Plaintiff had a valid and enforceable contract with Defendant Auto  
22 Expressions for the sale of air freshener products.

23        25. Plaintiff has fully performed its obligations under the terms of its  
24 contract with Kraco.

25       26. Plaintiff has fully performed its obligations under the terms of its  
26 contract with Auto Expressions.

27 27. Defendants Kraco and Auto Expressions have both materially breached  
28 the contract by failing to pay for the products that Plaintiff shipped to them as

1 identified in the Unpaid Invoices (less the Credit Amount).

2       28. As a direct and proximate result of Defendants' breach of contract,  
3 Plaintiff has been damaged in the amount of \$836,847.08, plus interest, costs, and  
4 expenses.

## **SECOND CAUSE OF ACTION**

**(Account Stated – Against Both Defendants)**

7       29. Plaintiff reincorporates all of its allegations contained in Paragraph 1  
8 through 28 of this Complaint as if fully restated herein.

9       30. Defendants owe Plaintiff money from the purchase and sale transactions,  
10 the total of which (\$836,847.08) is set forth in the Zobele letter to Kraco dated January  
11 18, 2018 (\$839,944.00), minus the credit memo issued by Zobele to Kraco  
12 (\$3,096.92) on January 26, 2017 (\$839,944.00 - \$3,096.92 = 836,847.08). Plaintiff  
13 and Kraco, by words or conduct, agreed that the amount stated in the account was the  
14 correct amount owed to Plaintiff. Defendants promised to pay the stated amount to  
15 Plaintiff. Defendants, however, have failed to pay the stated amount to Plaintiff.

16       31. As a direct and proximate result of Defendants' failure to pay the Unpaid  
17 Invoices (less the Credit Amount), Plaintiff has been damaged in the amount of  
18 \$836,847.08, plus interest, costs, and expenses.

### **THIRD CAUSE OF ACTION**

#### **(Unjust Enrichment – Both Defendants)**

21       32. Plaintiff reincorporates all of its allegations contained in Paragraph 1  
22 through 31 of this Complaint as if fully restated herein

23        33. As a result of the foregoing, Kraco and Auto Expressions both received  
24 a benefit, at the expense of Zobele.

25       34. It would be unjust to permit either Kraco or Auto Expressions to retain  
26 such benefit, without compensation to Zobele.

27       35. Kraco and Auto Expressions should be ordered to make restitution to  
28 Zobele, in the amount of \$836,847.08, plus interest, costs, and expenses.

## **FOURTH CAUSE OF ACTION**

**(Fraudulent Conveyance – Civil Code § 3439.05 – Both Defendants)**

3       36. Plaintiff reincorporates all of its allegations contained in Paragraph 1  
4 through 35 of this Complaint as if fully restated herein.

5       37. As a result of the foregoing, each Defendant fraudulently transferred  
6 assets to one or more third parties while it was insolvent (or as a result of which it  
7 became insolvent) and without receiving reasonably equivalent assets for certain of  
8 the assets transferred.

9       38. As a direct and proximate result of Defendants' breach of contract and  
10 fraudulent conveyances, Plaintiff has been damaged in an amount of \$836,847.08.

11       **WHEREFORE**, Plaintiff Zobele Mexico, S.A. de C.V. respectfully requests  
12 judgment against Defendants Kraco Enterprises, LLC and Auto Expressions, LLC as  
13 follows:

14       1.     Damages, jointly and severally, against Kraco and Auto Expressions, on  
15 its first, second, and third counts, in the amount of \$836,847.08;

16       2. The costs and expenses of this action, together with the maximum pre-  
17 judgment and post-judgment interest permitted by law; and

18 ||| 3. Any and all further relief as to the Court appears just and proper.

20 | DATED: June 6, 2018

Respectfully submitted,

WITHERS BERGMAN LLP

By:

Мария

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